

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3790 of 1987

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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RAMESHKUMAR V BAGADA CLERK

Versus

BHAVNAGAR MUNICIPAL CORPN  
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Appearance:

MR KIRAN YAJNIK for Petitioner  
MR JR NANAVATI for Respondent No. 1  
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CORAM : MISS JUSTICE R.M.DOSHIT  
Date of decision: 17/06/2000

ORAL JUDGEMENT

Heard the learned advocates.

The petitioner before this court is the employee  
of the Bhavnagar Municipal Corporation, the respondent

herein (hereinafter referred to as 'the Corporation'). The petitioner belongs to a Scheduled Caste. It appears that pursuant to the advertisement dated 24th February, 1987, the petitioner had applied for appointment to the post of Assistant Commissioner in the Corporation. His candidature, however, was not considered. The said post was reserved for Scheduled Tribe candidate. Thereafter another advertisement appeared on 4th May, 1987. Under the said advertisement two posts of Assistant Commissioner were advertised one of which was reserved for Scheduled Tribe candidate and another was for un-reserved category. Feeling aggrieved, the petitioner has preferred the present petition. It is the claim of the petitioner that the Corporation has failed to comply with the reservation policy in public employment. One of the posts of Assistant Commissioner which was not reserved, ought to have been reserved for the Scheduled Caste candidate. Therefore, the petition.

The petition is contested by the Corporation. The counter-affidavit has been made by the Chief Personnel Officer. It is stated that pursuant to the advertisement dated 24th February, 1987, three Scheduled Tribe candidates had applied for appointment to the post of Assistant Commissioner, and all the three were called for interview. However, none of them was found suitable for such appointment. The petitioner also had applied for, however, since he did not belong to the Scheduled Tribe, he was not called for interview. Since then, another advertisement was published inviting applications for two posts of Assistant Commissioner, one of which was reserved for Scheduled Tribe candidate. However, before the procedure for recruitment could be proceeded with further, representations were made by the employees of the Corporation requesting that the said posts be filled in by promotion from amongst the employees of the Corporation. The said request was considered and the Committee thought it fit to fill in the posts by promotion. However, such an exercise would require alteration in the relevant Rules and also a permission from the State Government. Keeping this in view, no appointment was made to the post of Assistant Commissioner. It is further assured that whatever be the decision, the same shall be implemented keeping in view the reservation policy.

In view of the further development that took place as narrated in the counter-affidavit and the assurance given, the cause of action, in my view, does not survive.

Petition is accordingly dismissed. Rule is  
discharged.

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JOSHI